

## Environmental Protection Agency

## § 270.175

the same means used to provide notice under § 270.145. The notice will include:

(1) The briefing schedule for the appeal as provided by the Board;

(2) A statement that any interested person may file an amicus brief with the Board; and

(3) The information specified in § 270.145(c), as appropriate.

(b) This appeal is a prerequisite to seeking judicial review of these EPA actions.

### **§ 270.160 When does my RAP become effective?**

Your RAP becomes effective 30 days after the Director notifies you and all commenters that your RAP is approved unless:

(a) The Director specifies a later effective date in his decision;

(b) You or another person has appealed your RAP under § 270.155 (if your RAP is appealed, and the request for review is granted under § 270.155, conditions of your RAP are stayed according to § 124.16 of this chapter); or

(c) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

### **§ 270.165 When may I begin physical construction of new units permitted under the RAP?**

You must not begin physical construction of new units permitted under the RAP for treating, storing or disposing of hazardous remediation waste before receiving a finally effective RAP.

HOW MAY MY RAP BE MODIFIED, REVOKED AND REISSUED, OR TERMINATED?

### **§ 270.170 After my RAP is issued, how may it be modified, revoked and reissued, or terminated?**

In your RAP, the Director must specify, either directly or by reference, procedures for future modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that oth-

erwise merits public review and comment. If your RAP has been incorporated into a traditional RCRA permit, as allowed under § 270.85(c), then the RAP will be modified according to the applicable requirements in §§ 270.40 through 270.42, revoked and reissued according to the applicable requirements in §§ 270.41 and 270.43, or terminated according to the applicable requirements of § 270.43.

### **§ 270.175 For what reasons may the Director choose to modify my final RAP?**

(a) The Director may modify your final RAP on his own initiative only if one or more of the following reasons listed in this section exist(s). If one or more of these reasons do not exist, then the Director will not modify your final RAP, except at your request. Reasons for modification are:

(1) You made material and substantial alterations or additions to the activity that justify applying different conditions;

(2) The Director finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

(3) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards or regulations, or by judicial decision after the RAP was issued;

(4) If your RAP includes any schedules of compliance, the Director may find reasons to modify your compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which you as the owner/operator have little or no control and for which there is no reasonably available remedy;

(5) You are not in compliance with conditions of your RAP;

(6) You failed in the application or during the RAP issuance process to disclose fully all relevant facts, or you misrepresented any relevant facts at the time;

(7) The Director has determined that the activity authorized by your RAP endangers human health or the environment and can only be remedied by modifying; or